

BOARD OF FORESTRY AND FIRE PROTECTION

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MINUTES BOARD OF FORESTRY AND FIRE PROTECTION MEETING April 6 and 7, 2004 Sacramento, California

BOARD OF FORESTRY MEMBERS PRESENT:

Stan Dixon, Chairman
Kirk Marckwald, Vice Chair
Mark Bosetti
Susan Britting
David Nawi
Tharon O'Dell
Gary Rynearson

BOARD STAFF PRESENT:

George Gentry, Executive Officer
and Executive Officer, Foresters Licensing
Donna Stadler, Executive Assistant
Chris Zimny, Regulations Coordinator
Mark Hite, Committee Staff

DEPARTMENTAL STAFF PRESENT:

Andrea Tuttle, Director
Bill Snyder, Deputy Director
Resource Management

CALL TO ORDER

Chairman Dixon called the April 2004 meeting to order.

REPORT OF EXECUTIVE SESSION

Chairman Dixon commented that there was nothing to report from the Executive Session.

Mr. Bruce Reeves, Deputy Attorney General and Counsel for the Board, reported that there was no action items to report, but there was one litigation item discussed regarding the Richardson Harvesting Plan.

CONSENT CALENDAR

There was nothing to report.

REPORT OF THE CHAIRMAN

Chairman Dixon reported that he met with the Resources Secretary, Michael Chrisman, regarding the communications between the Agency and the Board. It was a productive meeting. He also met with the Undersecretary of EPA, Jim Brannan, for the same purpose regarding lines of communications and the Board's desire to keep those lines wide open.

Chairman Dixon reported that he attended the CLFA workshop on performance-based programs with Member Heald and representatives from other states. He also reported that Member Heald had received a letter from the Governor on Friday denying his request for reappointment; his last official day was April 1, 2004.

REPORT OF THE DIRECTOR

Ms. Andrea Tuttle, Director of the California Department of Forestry and Fire Protection (CDF), reported that the Department was preparing for fire season. The Department is looking closely at staffing issues.

Director Tuttle commented that there are 40 members on the Blue Ribbon Committee. Each member was to submit a list of legislative needs. Some of the categories are; operational barriers, training needs, mutual aid systems; brush clearance and fuel modifications; and public outreach. The main theme is that this is a report that does not sit on a shelf.

Director Tuttle provided a "Hot off the Press" report regarding wildland protection guidelines that are an outcome of the Healthy Forest Initiative and the Healthy Forest Restoration Act; which was Legislation passed to facilitate fuels management. She reviewed those guidelines for the Members. During a meeting in South Lake Tahoe, Senator Feinstein charged the local fire districts to develop their own fire plans by August.

Director Tuttle provided a brief update on the global warming and climate change issue. The Department has created a Climate-Action Registry; which has its own board and is up and running. In 2002, a working group was formed and their report is still in draft form, but should become public next month.

Director Tuttle reported that the SRA fee and the Resource Management Budget had been taken away. She provided an overview of the situation for the Board.

Mr. Marckwald commented that it would be useful for the Board to know the names of the Legislators so that the Members may be able to generate support.

Director Tuttle indicated that she would provide those names for the Members. There was some further discussion regarding budget items.

REPORT OF THE OAK MORTALITY TASK FORCE (COMTF)

Mr. Mark Stanley, Chairman of the OMTF, presented his written report and reviewed it for the Members. A copy of this report is available at: <http://suddenoakdeath.org>

PUBLIC HEARING ON THE PROPOSED NAPA COUNTY RULES 2004

Chairman Dixon introduced the topic.

Mr. Chris Zimny, Regulations Coordinator for the Board, reviewed the changes in the 15-Day Notice that went out for public review. He thanked the members of the public for their timely response to the changes.

Ms. Dillon, Napa County Supervisor, reported that the Board of Supervisor's ratified the changes in the 15-Day Notice by a unanimous vote.

Mr. Patrick Lowe, Napa County staff, reviewed the amendments to the package for the Board. He commented that the issue has been discussed in the County for about two years. He noted that some of the changes were for clarification. He provided some displays for the Board and reviewed them for the Members.

Ms. Britting wanted to know if the rules before the Board reflect the current county rules.

Mr. Lowe indicated that they did and that the intent of the County was to stay as close as possible.

Mr. Dennis Hall, CDF, commented that, at the last Board meeting, the Board asked CDF to meet with the County and the Board's Regulations Coordinator to discuss CDF's suggested changes. That meeting took place and the Department believes that the 15-Day Notice does address the changes it suggested.

Note: Due to recording difficulties, the remaining portion of this hearing is not audible; therefore, the following has been transcribed strictly from notes.

Public comment

Mr. Steven Perry, representing Napa Valley Vintner's Association, read the March 23, 2004, letter of support from the president of the Association into the record.

Mr. Charles Smith, a Vintner, read his written comments into the record. He objected to the inappropriate reference to conversions, and believes that the County's reference to news articles is a light basis for justification. He urged the Board to vote against this package.

Mr. George Bachich commented that he does not believe that Napa County has made a good case for special rules. He read his written comments into the record. He asked that the Board reject the proposed rules.

Mr. George Henke commented that there is no real justification for the proposed rules. The changes really focused on protecting views and he believes that the proposed rules violate county ordinances. He urged the Board reject the proposed rules.

Ms. Jennifer Page-Haley opposes more rules because of past experience on land to past public construction projects and ill effects of those. She believes that the County is playing political games.

Mr. Mike Rodriguez believes that the County is trying to get more control and urged the Board to reject the package and keep state control.

Mr. Steward Smith spoke in opposition to the proposed rules package. He provided some background for the Board and commented that Napa County is wine country.

Mr. Dan Weldon, Forest Landowners of California (FLOC), commented that the FLOC does not support the proposed rules and asked that the Board reject the Napa County Rules 2004 package.

Mr. Keith Greenwood, California Licensed Foresters Association (CLFA), commented that Napa County is not unique and has not shown the need for this package. CLFA does not support it and asked that the Board reject it.

Mr. Steve Levine spoke in opposition to the proposed rules package. He believes that Napa County should focus on reducing fuel loads in overgrown forests.

Mr. Paul Mason, Sierra Club, believes that it is appropriate to limit conversions, which is a big issue in the state.

Mr. Mike Haley opposes the proposed rule package. He believes that the real issue is the removal of trees.

Mr. Kevin Collins commented that operations are moving into hillside with terracing. The herbicides and bare soils are frequent and he believes that the claim of no soil erosion is likely an unreal claim.

Ms. Dillon requested that the Board take no action now and allow the County to come back after it has taken into consideration the comments and concerns expressed here today.

04-4-1 Mr. O'Dell moved to close the public hearing. Mr. Marckwald seconded the motion. Member Nawi recused himself; the motion passed by voice vote.

Mr. Rynearson wanted to know if the item needed to be kept open.

Mr. Bruce Reeves, Deputy Attorney General and Counsel for the Board, indicated that this would be necessary to keep this item open.

Mr. O'Dell withdrew his motion.

There were some questions regarding the 180-day clock and whether a 15-Day or 45-Day Notice would be required should the County resubmit the petition, or the Board continues it.

Mr. Reeves commented that the 180-day clock has been ticking since the submission of the original rules in July 2003. There is no direct reference to a waiver of the 180-days in statute PRC 4516.5, although judicial interpretation would be the 180-day limit is to support the County's wishes. If the Board granted a new recommended proposal and a 15-Day Notice, then it's possible that a new clock would start. The clock runs with the recommended package. It may require having the County submit a letter stating that a rework of the proposal is needed. However, this rework and resubmission would require a new 45-Day Notice with the new proposal, or a reconsideration of the petition of the necessity and consistency.

There was some further discussion.

Chairman Dixon commented that the Board was going to honor the County's request not to take action today, and he suggested that the County have a discussion with CDF and Board staff in an effort to come up with a revised package for the Board to determine if a new 45-Day or 15-Day Notice should be issued. He directed the Executive Officer to immediately contact Napa to help remove issues and schedule for rehearing the existing proposal.

04-4-2 The motion was to continue this item, which passed by consensus.

REPORT OF FEDERAL AGENCIES INCLUDING USDA FOREST SERVICE, NATIONAL MARINE FISHERIES SERVICE, US FISH & WILDLIFE SERVICE AND US ENVIRONMENTAL PROTECTION AGENCY

There was no report.

DISCUSSION REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) AND MANAGEMENT PLAN FOR JACKSON DEMONSTRATION STATE FOREST

Chairman Dixon introduced the topic.

Mr. George Gentry, Executive Officer for the Board, reported on the second facilitated scoping session. The scoping period has been closed and all of the comments are being collated. This item will possibly be brought back before the Board during its June meeting with a set of options and alternatives.

Mr. Paul Mason, Sierra Club, suggested that staff keep Senator Chesbro informed.

Chairman Dixon commented that the Board received a letter from the Senator and is keeping him informed.

There was some further discussion. No action was taken.

REPORT OF THE ADVISORY COMMITTEES

RANGELAND MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Jeff Stephens, RMAC staff, reported that RMAC would be conducting a meeting regarding Oak Woodlands in California on April 26 and 27, 2004, in Sacramento. It will be a publicly noticed meeting to receive input from the public and agencies on this issue.

Mr. Stephens asked that the Board approve Ivan Houser as the replacement for Len Lindstrand on the Range Management Advisory Committee.

04-4-3 Mr. Rynearson moved to approve Ivan Hauser as the new member on the RMAC. Mr. Bosetti seconded the motion, and all were in favor.

MONITORING STUDY GROUP (MSG)

Mr. Peter Cafferata, CDF MSG staff, referred to the MSG meeting minutes in the Board's binder and reviewed it for the Members. He announced that MSG would be holding its first field tour in western Mendocino County on May 19, 2004. There will be an announcement and agenda of this tour going out to the public. This report may be viewed in its entirety at: www.bof.fire.ca.gov/board.

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. George Gentry, Acting Executive Officer for the PFEC, commented on the passing of RPF 246, Ron Adams, and expressed his and the Board's condolences and took a few minutes to remember Ron and all that he has meant to Forestry and to his friends.

Mr. Gentry reported that April 16, 2004, was the date for the upcoming RPF exam; there are 50 examinees. He announced that there are two positions open on the PFEC, one public member and one Board representative.

STANDING COMMITTEES OF THE BOARD

REPORT OF THE SENSITIVE WATERSHED NOMINATIONS REVIEW

Mr. O'Dell, Chair of the Review Committee, reported that the Review Committee is being formulated and dates are being set.

Mr. George Gentry, Executive Officer for the Board, commented that the meeting date had been set for April 23, 2004. The Review Committee will be a nominating review committee and there will be a technical advisory committee as well.

FOREST PRACTICE COMMITTEE (FPC)

Ms. Britting provided the report for the FPC. The Committee had a discussion on AB 47, the rule modifications regarding mapping for cumulative impacts. She noted that there was an *Ad Hoc* working group was being formed. The Committee will come to the Board in May or June with a recommendation.

There was some discussion.

Ms. Britting commented that the Committee discussed the fuels reduction issue and covered a broad range of possibilities and there will be a White Paper on this issue. She commented that FRAP had come up with some ideas of this issue. There was some discussion regarding the possibility of having another Committee meeting prior to the May meeting.

There was some discussion.

Ms. Britting reported that the Committee had a discussion on the Heritage Tree Disclosure. The report on this issue will be presented at the June meeting.

Ms. Britting commented that the Committee had a report from FRAWG and a discussion followed. FRAWG will go back and try to get a consensus from its group.

Ms. Britting reported that there was a presentation on a White Paper on watercourse classification, which will be discussed further in the near future.

POLICY AND MANAGEMENT COMMITTEE (PMC)

Mr. O'Dell, Chair of the PMC, reported that there was a discussion regarding the integration of the FRAP Report into the Policy and Management discussions. Staff did some of the initial work in drafting how the report could adapt to the Montreal approach by using the Oregon model in the execution of similar responsibility. That draft will be provided to the Members in May or June with a public meeting probably in the July and possibly concluding this item in the early autumn. An invitation will be sent to sister agencies that have regulatory responsibility on private properties in this state to see if they would be willing to accept this as an approach. The Department thought there might be two stages involved, one for small landowners and one for larger landowners.

Mr. Marckwald wanted to clarify for the Board that it has an obligation to hold a hearing on the assessment itself and the PMC thought it better to hold it earlier than later to get comments on the assessment so that the PMC could focus on the policy options and then bring the package to the full Board in the fall.

Mr. Nawi expressed his appreciation for the presentation on the performance-based approach using Best Management Practices.

There was some discussion.

Director Tuttle wanted to know if the Board would like to have a presentation of the Montreal process.

Mr. O'Dell commented that FRAP did provide a report on that process.

Director Tuttle indicated that she could arrange for a presentation to the full Board.

Chairman Dixon agreed that the Board would be interested in such a presentation.

HEARING ON LOMPICO TIMBER HARVEST PLAN (THP)

Chairman Dixon introduced the topic and commented that the public portion of the hearing was closed during the January 2004 meeting and no public testimony would be taken.

Mr. Rynearson recused himself from this discussion.

Mr. George Gentry, Executive Officer for the Board, provided some background for the Board and reviewed the procedure for the hearing.

There was some discussion.

04-4-4 Mr. Nawi moved that the California Department of Forestry and Fire Protection (Department) applied an incorrect legal standard in addressing cumulative impacts, and pursuant to 14 CCR §1055.6, the Board disapproves Timber Harvesting Plan 1-01-170 SCR. The Board finds that the plan is not in conformance with the rules and regulations of the Board and the provisions of the Z'berg-Nejedly Forest Practice Act. Timber operations shall not take place. Ms. Britting seconded the motion, and a roll call vote was taken:

Bosetti	Nay
Marckwald	Aye
Nawi	Aye
Britting	Aye
O'Dell	Nay
Dixon	Aye

The motion carried with a 4-2 vote.

The Board directed the Department to re-analyze cumulative impacts utilizing the correct legal standard. The Board defines that standard as one which does not assume that when a single project's impacts are insignificant, cumulative impacts are insignificant. The Board further directed the Department to analyze any issues it deems appropriate that were raised in the course of the proceedings.

Note: There was a Court Reporter present, and a copy of the complete transcription of this hearing is available for viewing at the Board Office.

AD HOC ROADS AND WATERSHED COMMITTEE

Mr. Rynearson, Chair of the *Ad Hoc* Committee, the Committee received a presentation from the North Coast Regional Water Quality Control Board (NCRWQCB). He commented that the waiver would be used by small landowners, but believes that there are issues in the waiver that need to be addressed by the Board. Perhaps it will be an item for discussion in May.

Mr. Rynearson commented that the Road Management Plan would be reviewed again in San Diego.

RESOURCE PROTECTION COMMITTEE MEETING (RPC)

Chairman Dixon indicated that the report from the RPC would be provided in May.

PUBLIC FORUM: Members of the public may address the Board on any topic within its jurisdiction not otherwise on the agenda. Submittal of written comments is encouraged to ensure that all comments will be included in the record before the Board. Please be prepared to summarize comments to three minutes in length, or otherwise at the discretion of the chairman.

Mr. Dan Weldon, Forest Landowners of California (FLOC), provided videos for the Members on the importance of infrastructure and the demise of a sawmill. He referred to the announcement of the FLOC's Annual meeting, which would be held May 1, 2004.

Mr. Bill Keye, representing the California Licensed Forester's Association and the Nor-Cal Society of American Foresters, provided some background on Ron Adams' long association with them and how much he would be missed.

Mr. Charles Greenlaw commented that he had helped Ron Adams pass out seedlings at the State Fair over the last few years and that he too would miss him. He provided a copy of "Because People Matter" regarding capitalism, ecology, and the environment and read an article from that publication.

Mr. Richard Gienger commented on the passing of Ron Adams. He believes that Member Heald's absence on the Board will be felt. He hopes that the Stewardship NTMP will be completed and brought before the Board. He commented on performance standards and monitoring. He believes that if the Board goes to prescriptive standards, there needs to be a commitment to have enough personnel and evaluation procedures to make it work. He commented that a credible and reasonable evaluation process would benefit everyone. He announced that the Buckeye Forest Project is going ahead with an NTMP workshop on April 20 and 21, 2004. He believes that the Board should go back to the Dunn Report and do something about cumulative impacts.

APPROVAL OF MINUTES

Chairman Dixon asked that the Board to consider approval of the December 2003 minutes, as well as the February and March 2004 minutes.

Mr. O'Dell commented that he would provide some suggestions for the Executive Assistant.

04-4-5 Mr. Marckwald moved to approve the minutes as amended except for the March Committee reports, which will be forwarded to the Members for their review and approval in May. Mr. O'Dell seconded the motion, and all were in favor with Member Nawi abstaining.

Mr. Bill Snyder, Deputy Director for Resource Management, provided two documents on the NTMP non-concurrence issue that Member Heald had brought up at the last meeting, and reviewed it for the Members.

REPORT OF THE REGULATIONS COORDINATOR

Mr. Chris Zimny, Regulations Coordinator, commented that the list of regulations was getting long. He reviewed them for the Members. There are seven that will need processing within the next few months. They are the Napa Rules; the Transition Silvicultural Rule, which a 45-Day Notice will be published on April 9, 2004; and SRA reclassification key, which might be an Emergency Rule with regulation being developed by the Department outside of the Board and brought before the Board possibly in May. Others rules that are required this year are AB 47 regarding mapping; the Road Management Plan; Fuel Hazard Reduction; and the FRAWG package dealing with Seeps and Springs. He commented that all seven of these regulations are nearing the 45-Day Noticing period.

Note: The Board's Regulations Coordinator will report on ongoing regulatory matters. The Board may act in response to requests of the Regulations Coordinator on items presented in the report. Report will include status of actions taken to comply with Executive Order S-2-03, content and status of Napa County Rules.

EXECUTIVE OFFICERS REPORT

Mr. George Gentry, Executive Officer to the Board, wanted to mention one last thing about Ron Adams; he was not just in the military, he was a Naval Forward Observer. He then reviewed Legislation for the Board.

Mr. Gentry reviewed the May Joint Board of Forestry and Fish and Game Commission meeting schedule for the Members. He commented that there would be a field trip on Thursday.

NEW AND UNFINISHED BUSINESS

Mr. Marckwald believed that one or more of the Board members should speak to one or more Commission members to urge them to bring a level of intensity and intent to the discussions.

Chairman Dixon commented that he spoke with the Executive Officer to the Commission on that issue, but agreed that it helps to follow-up with individual contact.

Mr. Marckwald suggested having a gathering to honor Member Heald's service on the Board. He thought possibly in June.

Chairman Dixon asked the Executive Officer to coordinate that event.

Mr. Gentry indicated that he would.

Ms. Britting reported that the date for the next Forest Practice Committee would be Monday, April 26, 2004, in Redding and that meeting will be noticed.

ADJOURNMENT

Chairman Dixon adjourned the April 2004 meeting of the Board.

Respectfully submitted,

ATTEST:

George D. Gentry
Executive Officer

Stan Dixon
Chairman

Copies of the attendance sheets can be obtained from the Board Office.

ADA Notice- Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a State Board of Forestry and Fire Protection Meeting, may request assistance at the Board Office, 1416 Ninth Street, Room 1506-14, Sacramento, California or by calling (916) 653-8007. Requests should be made one week in advance whenever possible.